



ODNI Announces Transition to New Telephone Metadata Program

November 27, 2015

In January 2014, in a speech at the Department of Justice to address domestic and international concerns regarding U.S. intelligence activities, President Obama announced that the Intelligence Community would end the NSA bulk telephony metadata program conducted under Section 215 of the USA PATRIOT Act. The President directed the Intelligence Community and the Attorney General to develop options for a new approach to match the capabilities and fill the gaps that the Section 215 program was designed to address without the government acquiring this metadata in bulk. Based on a recommendation from the Director of National Intelligence and the Attorney General, and after carefully considering the available options, in particular accepting one of the key recommendations of the President's Review Group on Intelligence and Communications Technologies, the President announced in March 2014 that the government should no longer acquire this data in bulk. Instead, the President indicated that the data should remain at the telephone companies with a legal mechanism in place that would allow the government to obtain data pursuant to individual orders from the Foreign Intelligence Surveillance Court (FISC) approving the use of specific numbers to serve as the basis for the targeted production of telephony metadata.

The President also noted, however, that legislation would be required to implement this new approach and the administration worked closely with Congress to enact the President's proposal. On June 2, 2015, Congress passed and the President signed the USA FREEDOM Act of 2015. The Act reauthorized several important national security authorities; banned bulk collection under Section 215 of the USA PATRIOT Act, under the pen register and trap and trace provisions found in Title IV of Foreign Intelligence Surveillance Act (FISA), or pursuant to National Security Letters; adopted the new legal mechanism proposed by the President regarding the targeted production of telephony metadata; made significant modifications to proceedings before the FISC; and built on the U.S. Government's unprecedented transparency about intelligence activities. With respect to the new mechanism for the targeted production of telephony metadata, to allow sufficient time to implement a new system while at the same time avoiding any lapse in a national security program, the USA FREEDOM Act provided for a 180-day transition period during which the existing NSA bulk telephony metadata program may continue.

On November 29, the transition period ends. Beginning Sunday, November 29, the government is prohibited from collecting telephone metadata records in bulk under Section 215, including of both U.S. and non-U.S. persons. And, while under the prior program NSA collected metadata in bulk and sought court approval for individual queries, the USA FREEDOM Act requires that the government must now base any application for telephone metadata records under FISA on a "specific selection term"—a term that specifically identifies a person, account, address, or



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personal device in a way that limits the scope of information sought to the greatest extent reasonably practicable. This further ensures that collection of information for intelligence purposes is appropriately focused and targeted, and is limited to information that telephone service providers have historically used for their internal billing and operational needs.

Moreover, under the Act, the Government will report annually to Congress and to the public, among other things, the total number of orders issued under this authority and the number of targets of such orders.

As previously stated, NSA analytic access to the historical metadata collected under Section 215 has ceased. However, NSA has requested limited access to historical Section 215 metadata until February 29, 2016, limited to technical personnel and solely for the purpose of verifying that the new targeted production mechanism authorized by the USA FREEDOM Act is working as intended. The FISC is currently considering this request.

Separately, NSA remains under a continuing legal obligation to preserve its bulk 215 telephony metadata collection until civil litigation regarding the program is resolved, or the relevant courts relieve NSA of such obligations. The telephony metadata preserved solely because of preservation obligations in pending civil litigation will not be used or accessed for any other purpose, and NSA will destroy the Section 215 bulk telephony metadata as soon as possible upon expiration of its litigation preservation obligations.

With the transition period ending, the Intelligence Community has fulfilled an important Presidential commitment that allows national security professionals to retain the capabilities necessary to continue protecting the country, while strengthening the civil liberties protections that the American people cherish.

[View the “Implementation of the USA FREEDOM Act of 2015? Factsheet](#)